

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

275

CRM-M-1865-2023

Date of decision: 14.09.2023

Pawan Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sachin Luthra, Advocate for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of orders dated 19.01.2021 and 10.03.2021 passed by the Additional Sessions Judge, Panchkula, vide which the petitioner has been declared proclaimed offender in FIR No.42, dated 04.04.2018, registered under Section 21 of the NDPS Act, at Police Station Kalka.

2. Learned counsel contends that petitioner had been granted regular bail in FIR No.42 dated 04.04.2018, registered under Section 21 of the NDPS Act, at Police Station Kalka, wherein the alleged recovery from him was 5 gms. of heroin, vide order dated 10.05.2018, whereafter due to some miscommunication on the part of the petitioner and his learned counsel, he could not appear before the Court, leading to cancellation of his bail vide order dated 04.04.2019, Annexure P4. The provisions of Sections 82 and 82(2)(i)(a) Cr.P.C. were not complied with in letter and spirit as the mandatory 30 days period were not granted. Consequently, FIR under Section 174-A was registered on 17.10.2021 wherein he has been granted

regular bail vide order dated 22.10.2021 and he is appearing in the said proceedings. His absence is neither wilful nor deliberate. Further that he is ready and willing to join the proceedings and it is prayed that one opportunity may be granted to him to surrender before the trial Court, even if the same is subject to costs. Reliance is placed on the orders of this Court in CRM-M-38277-2022 dated 26.08.2022, in the case of **Surjit Singh vs. State of Punjab**, CRM-M-39000-2022, titled as **Raghav vs. State of Punjab**, decided on 09.09.2022 and CRM-M-36490-2022, titled as **Major Singh vs. State of Punjab**, decided on 15.9.2022.

3. Learned State counsel opposes the provisions of Section 82 Cr.P.C. was meticulously followed and the order was only passed on account of the fact that he had absented from the proceedings.

4. Heard.

5. The very purpose of initiation of proclamation proceedings, is to compel and secure the presence of the accused to face trial and establish the rule of law, as also to ensure finalization of the proceedings.

6. Adverting to the facts of the present case, the reasons for non-appearance of the petitioner that led to the passing of the impugned order, appear to be justified and also the fact he is appearing in the proceedings in FIR registered under Section 174A IPC, wherein he was granted regular bail. At times, the accused can be prevented by sufficient reasons to put an appearance before the Court and such an absence cannot necessarily be construed as deliberate and wilful. However, it is incumbent upon him to join the proceedings, before the trial Court, for the culmination of the same. Considering his readiness and willingness to surrender and join the proceedings, in case one opportunity is granted to the petitioner, no

prejudice shall be caused to any of the parties, rather his joining the proceedings would help in expediting the trial. Thus, in order to make the ends of justice meet and finding judgments referred to above being applicable to the instant case, the present petition deserves to be allowed.

7. In view of the afore-referred orders and the facts and circumstances of the case, the impugned orders dated 19.01.2021 and 10.03.2021 are set aside subject to surrender by the petitioner before the trial Court on or before 25.09.2023 and depositing Rs.5,000/- with the Punjab and Haryana High Court Bar Advocates’ Clerks Association. He is allowed to remain on the same bail/ surety bonds as had been furnished by him at the time for grant of regular bail. He is also directed to furnish an undertaking by way of an affidavit that he will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. The trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

8. Before parting with this order, it is made abundantly clear that in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

(AMAN CHAUDHARY)
JUDGE

14.09.2023
ashok

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No